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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,917	07/25/2006	Jean Hardy	P/3255-99	5468
2352	7590	05/01/2008	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				BRINSON, PATRICK F
ART UNIT		PAPER NUMBER		
3754				
		MAIL DATE		DELIVERY MODE
		05/01/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/575,917	HARDY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Patrick F. Brinson	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 January 2008.

2a) This action is **FINAL**.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-7 and 9-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2-4,9 and 10 is/are rejected.

7) Claim(s) 5-7 and 11-13 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites layers of helical windings, at least one heath comprised of a polymer material, and then recites further comprises “from the inside outward”, an internal carcass, an internal sealing sheath, etc. The structural connection of the claimed invention is not clear wherein elements are recited initially, then in the middle of the claim, the phrase “from the inside outward” is used and then several other elements are recited. It is suggested that “from inside outward” be placed towards the beginning of the claim prior to the elements so as to structurally connect the elements. Likewise with claim 10, there is no structural connection between the windings comprising a PTFE tape and the sheath comprised of polymer material.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,934,335 to **Hardy** in view of 5,507,320 to **Plumley**.

The patent to **Hardy** discloses a flexible tubular pipe for transporting hydrocarbons, comprising independent outwardly successive layers of helical windings of various profiled strips and the layers including at least one sheath comprised of polymer material, at least one sheath (2) comprising a tetrafluoroethylene (TFE) and another fluoromonomer, such as perfluoro (propyl vinyl ether). It is further disclosed that the layer (2) can be made with TEFLON TFA . It is disclosed that the thickness of the TFE is 0.5 mm to 3 mm. **Hardy** does not disclose the TEFLON layer as being comprised of a helical wound tape. The patent to **Plumley** discloses a hose suitable for transporting fuel including a TEFLON wrap (14). It is disclosed that the wrap serves to increase the permeation resistance provided by the layer (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sheath of **Hardy** such that it is a tape or wrap as suggested by **Plumley** in order to alternatively provide a polytetrafluoroethylene material layer.

***Allowable Subject Matter***

3. Claims 4 and 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Amendment***

4. Applicant argues that the teaching of **Hardy** can not be combined with the teaching of **Plumley** to teach that it would be obvious to one of ordinary skill at the time the invention was made to provide the TEFLON wrap in the form of a helical wrap because **Plumley** discloses the tape in a smaller thickness. The **Hardy** reference discloses that it is known to provide a PTFE sheath in the recited thickness. **Plumley** is merely being used to show that it is also known to provide a permeation resistant TEFLON wrap in the form of a helical tape. It would be obvious to modify the size, i.e., the thickness of the tape to meet the specific flexibility needs of the user, wherein the hose of **Hardy** is used in submarine petroleum installations and the hose to **Plumley** is a smaller hose used as a fuel conducting hose in an automobile and therefore would require a thinner layer for greater flexibility.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick F. Brinson/  
Primary Examiner, Art Unit 3754

P. F. Brinson  
April 28, 2008